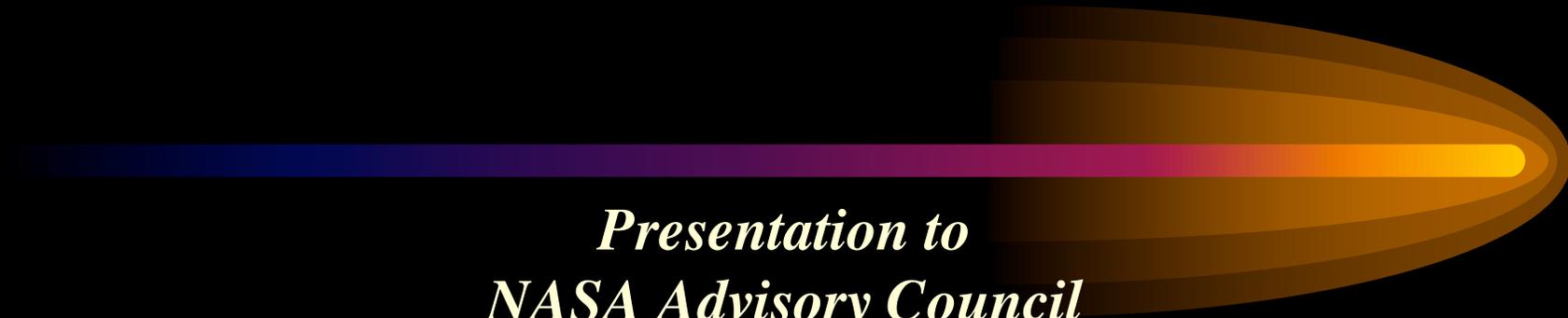


FEDERAL ADVISORY COMMITTEE ACT



Presentation to NASA Advisory Council Science Subcommittees Planning Conference

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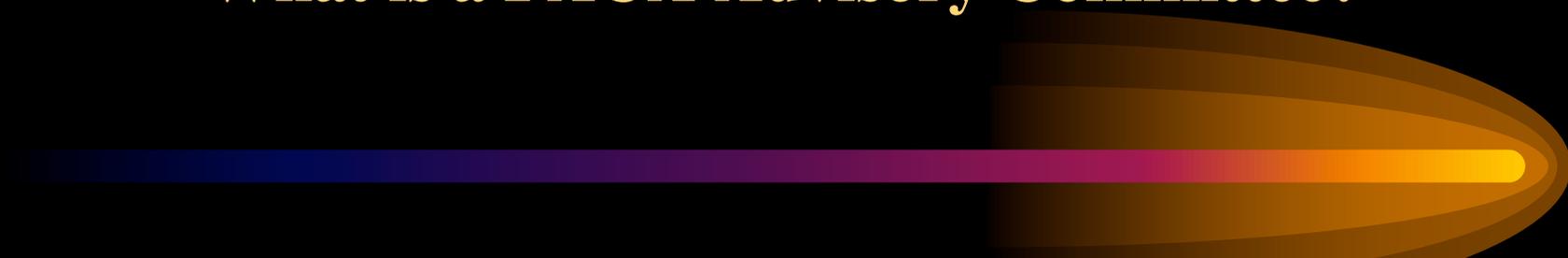
May 3, 2006

Background



- **Advisory committees to the Federal Government have a long, storied history**
- **Today, approx. 1000 Federal advisory committees advise the Executive Branch, with over 60,000 committee members**
 - Approx. \$300M in annual expenses; 6700 meetings; 1000 reports
 - HHS, DOI, USDA, DOD, NSF, DOC: large no. of advisory committees
 - NASA's advisory committees have fluctuated, ranging from 2 – 26
 - NASA today has 5 FACA-chartered advisory committees: NAC, ASAP, ISSAC, ISSISTF, PNTAB

What is a FACA Advisory Committee?



- **1972 Federal Advisory Committee Act (FACA) – Public Law 92-463**
 - Provide advice that is important, relevant, objective, open to public
 - Act promptly to complete work
 - Comply with reasonable cost controls and recordkeeping requirements
- **Established by Statute, the President or Federal agency, or “utilized” by the President or Federal agency**
 - To obtain advice or recommendations for the President or agency
 - Contains at least one non-Federal employee
- **“Good government” tradition (FOIA, Sunshine Act, Ethics, etc.)**

Other Key FACA Regulations and Policies

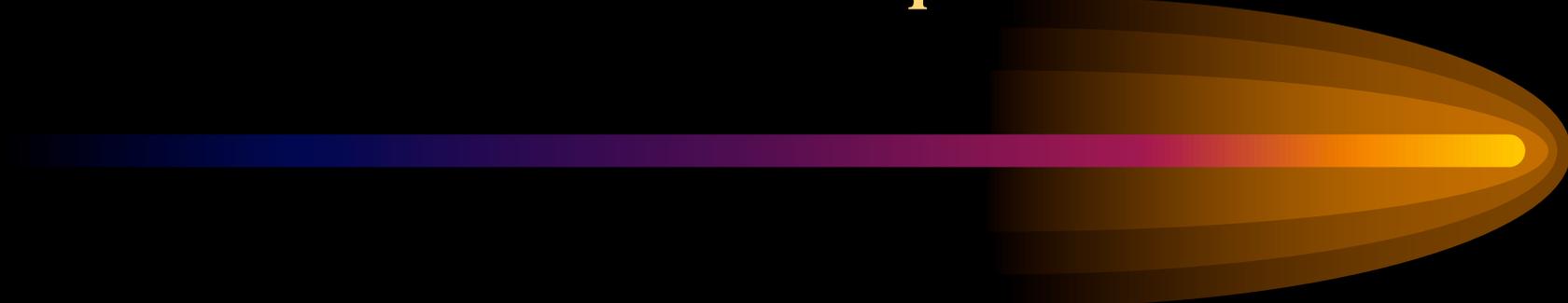
GSA Federal Advisory Committee Management: Final Rule (41 CFR Parts 101-6 and 102-3)

- Handbook for Federal Agencies on FACA management/operations.

NASA Policy Directive: FACA Committees (NPD 1150.11)

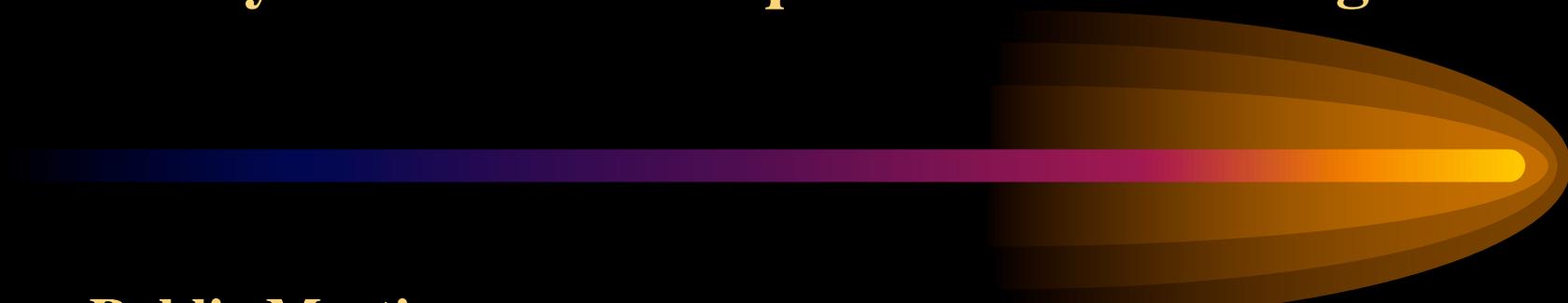
- All NASA advisory committees will operate in full compliance with FACA.
- All NASA non-chartered subcommittees, task forces, etc., that report to a parent FACA advisory committee also will operate with same spirit of openness and public accountability as embodied in FACA (“FACA-like”).
- NASA advisory committees are solely advisory. Only NASA officials may determine Agency policy, direct Agency actions and execute Agency programs.

General FACA Requirements



- Develop and file a charter with Congress
- Maintain a balanced membership
- Hold open public meetings whenever deliberations take place to seek consensus
- Keep minutes or summaries of meetings
- Allow public filing of written statements
- Announce all meetings in Federal Register
 - 15 days in advance
- Maintain all committee documents for public inspection

Why Does FACA Require Public Meetings?



Public Meetings

- Goals of the FACA statute include:
 - Reducing inappropriate influence on government decisions
 - Eliminating government decisions made behind closed doors
 - Allowing public contemporaneous access to decision process
 - Ensuring positive public perception of Federal Agency decision-making
 - “Good government”

Public Meetings – cont'd

To Assure Public Access:

- **Advance notice of meeting:** Time, location and agenda – must be published in the Federal Register at least 15 calendar days before the scheduled meeting.
- **Accessible meeting location:** But Agency is not required to accommodate all of the public.
- **Accessible committee information:** Includes minutes and documents considered at each meeting. Posting committee information on website recommended.
- **Public may submit documents/written statements:** Committee is free to use public input as it sees fit.
- **Teleconferences are possible:** But need public access, e.g., separate room with speakerphone and call-in line. Also need Federal Register notice.

Public Meetings – cont'd



“Closed Meetings” – Exceptions to Public Meeting Requirement:

- National security
- Trade secrets, or commercial or financial information
- Criminal investigatory records
- Issuance of subpoenas or litigation strategy
- Specifically exempted by statute
- Personnel issues
- Closing a FACA meeting takes place under “Government in Sunshine Act.”
Must be planned well in advance, reviewed by ACOMO, Office of General Counsel, and approved by Agency Head. Written Agency determination required, with public access to the determination.

Public Meetings – cont'd



“Non-FACA Meetings” – Activities not Subject to FACA:

- Purely administrative sessions
 - Schedule
 - Membership
 - Operating principles
- Preparatory meetings
 - Drafting sub-groups
- Purely fact-finding meetings
 - Site visits by sub-groups
 - Research, information-gathering
- “Non-FACA meeting” determination memo required; signed by DFO, ACMO and Office of General Counsel

Questions?



FACA:

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